

ZONING BOARD OF REVIEW

Barrington, Rhode Island

December 17, 2015

APPLICATIONS #3790, #3821, #3822, #3827, #3828, #3829

MINUTES OF THE MEETING:

At the call of the Chairman, Thomas Kraig, the Board met with Mark Freel, Paul Blasbalg, Peter Dennehy, Elizabeth Henderson (departed at 7:15), Ladd Meyer and David Rizzolo.

Also present were Solicitor Andy Teitz, Building Official Bob Speaker and secretary Mary Ann Rosenlof.

At 7:02 P.M., Mr. Kraig called the meeting to order.

MINUTES OF THE PREVIOUS MEETING:

MOTION: Mr. Rizzolo made a motion to approve the November 19, 2015 minutes as written. Mr. Dennehy seconded the motion and it carried unanimously (5-0).

Approval of new written decision for Application #3790, Linda Burton, 296 Narragansett Ave., Barrington, RI, applicant and owner, for permission to add living space above an existing garage and to construct an entrance addition between the garage and an existing single-family residence, with existing setbacks to remain unchanged. Assessor's Plat 1, Lot 281, R-10 District, 296 Narragansett Ave., Barrington, RI, requiring dimensional relief for side yard setback, rear setback, exceeding lot coverage, and setback from wetlands/water bodies. On February 19, 2015, the Board granted the application. On November 2, 2015, the R.I. Superior Court remanded the application to the Board with instructions to issue a new written decision.

Mr. Teitz explained that the Board had previously rendered a decision approving this application. The Superior Court subsequently remanded the application to the Board with instructions to issue a new written decision more clearly setting forth the reasoning behind the several elements of the decision. The solicitor's office drafted the new written decision and provided it to the Board for approval. Upon review by the Board, two changes were proposed under No. 3 of Findings of Fact and Conclusions of Law: 1) replace the wording in the 1st bullet point from "...both in scale and *in style*." to "...both in scale *and massing*"; and 2) change the wording in the 2nd bullet point from "...being stored *street side*." to "...being stored *street side or in the driveway*."

MOTION: Mr. Rizzolo made a motion to approve the new written decision, as drafted and amended. Mr. Dennehy seconded the motion and it carried unanimously (5-0).

Continuation of Application #3821, Jose & Fatima Dutra, 199 Rumstick Rd., Barrington, RI, applicants and owners, for permission to replace an existing barn with an accessory structure – greenhouse/shed., Assessor’s Plat 10, Lots 94 & 3, R-40 District, 199 Rumstick Rd, Barrington, RI, requiring a dimensional variance for accessory use (greenhouse) exceeding 1,500 cubic feet.

Present: Peter Skwirz, attorney, 450 Veterans Memorial Parkway, East Providence, RI
John Melo, contractor

Mr. Skwirz explained that at the request of the Board at the October 15, 2015 meeting, they have submitted additional plans for both the exterior & interior design and elevations of the greenhouse/shed as well as the reason for the size of the greenhouse. There will be a planter outside of the greenhouse with assorted shrubbery for both aesthetics and to provide screening. There will be stone veneer over the foundation wall and field stone siding on the storage side of the shed and along the chimney. The greenhouse will be aluminum and glass and have fiberglass shingling on the roof.

The interior will have space for 16 fig trees, 16 guava trees, 8 passion fruit trees and 8 hibiscus plants. There will be a room for a tractor pull-in used to move the trees due to their size and weight and the shed side will have space for all necessary equipment. Mr. Skwirz also pointed out the lot and surrounding area from a satellite photo for perspective. The barn currently on the property will be taken down once the greenhouse/shed is constructed.

The lot on which the greenhouse will be built is owned by a family trust, with different ownership from the lot on which the house is situated.

The following statements are in response to questions from the Board:

- Mr. Teitz suggested that a condition of approval could be that the owner/applicant would have to come before the Board if they were to propose another dwelling on the subject lot. The Board had understood this to be two merged lots, which is not the case. The owners agreed with this condition.
- There will be water and electric and gas for backup heating but the primary heating will be with wood. There will be no sewer.
- There will be 8’ arborvitae trees for screening purposes making the greenhouse virtually impossible to see from Rumstick Road.
- The existing barn at approx. 30,900 cubic feet is roughly the same size or slightly larger than the proposed greenhouse/shed of 29,120 cubic feet.

Mr. Teitz suggested that a timeframe be set for the barn to be demolished after the greenhouse is built. The deadline was set at September 1, 2016.

At 7:58 p.m., the public participation portion of the hearing was closed.

MOTION: Mr. Freel made a motion to approve the application with the following conditions.

- The back lot would not be used for construction of a residential structure without future approval by the Zoning Board.

- The existing barn must be demolished no later than September 1, 2016.
- The proposed accessory structure will have water, gas and electric services but no sewer connections.
- The proposed structure has to be substantially as shown on the revised plans submitted to the Board.

Mr. Dennehy seconded the motion and it carried unanimously (5-0).

REASON FOR DECISION:

It was the judgment of the Board that the standards in § 185-69 have been met: A) that the hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not to the general characteristics of the surrounding area because this is an approximately 3 acre back lot with a small right of way onto Rumstick Road; at that size and distance from neighboring houses, the size of the greenhouse is reasonable. The conditions placed on the approval will control future development of the lot.; B) that the hardship is not the result of any prior action of the applicant and does not result primarily from the desire of the applicant to realize greater financial gain because there is no indication of any prior action and the applicants have shown that this request is for a personal hobby and not commercial use; C) that the granting of the requested variance will not alter the general character of the surrounding area or impair the intent or purpose of this chapter or the Comprehensive Plan because the proposed structure will be on a large lot and removed from both the street and adjacent houses, and an existing barn will be removed; D) that the relief to be granted is the least relief necessary because the greenhouse is sized to meet the needs of the trees / plants maintained by the applicant. Additionally, the standards for a dimensional variance set forth in Section § 185-71 have been met because the applicant has proved that the hardship to be suffered by the owner, absent granting the relief, would amount to more than a mere inconvenience because absent a structure like this, the applicant would not be able to maintain his trees / plants.

Continuation of Application #3822, Sam Havens & Audrey Kupchan, 16 Wildflower Rd., Barrington, RI, applicants and owners, for permission to remove an existing sunroom and build an office addition on existing slab. Assessor's Plat 11, Lot 42, R-40 District, 9 Strawberry Dr., Barrington, RI, requiring dimensional relief for side yard setback and construction within setback from wetlands/water bodies.

Present: Sam Havens & Audrey Kupchan, applicant and owners
Ron Eaton, Capital Building & Design

Mr. Eaton explained that at the request of the Board at the November 19, 2015 meeting, they have submitted a site survey and full building plans for the proposed office. This would be built on the existing foundation/footprint, not go any closer to any lot lines, and not expand any area coverage. The floor elevation would be raised 6 ½ inches to match the floor level of the rest of the house. The roof will be a flat roof just under the 2nd story window rather than the existing pitch roof. The exterior wall is currently at an angle and will be squared off with the new design.

Mr. Teitz clarified that the existing sunroom is actually 17'x10' rather than 17.4' as depicted in the plans.

At 8:07 p.m., the public participation portion of the hearing was closed.

MOTION: Mr. Rizzolo made a motion to approve this application. Mr. Freel seconded the motion and it carried unanimously (5-0).

REASON FOR DECISION:

It was the judgment of the Board that the standards in § 185-69 have been met: A) that the hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not to the general characteristics of the surrounding area, and is not due to an economic disability of the applicant because the house location is pre-existing and the area of concern is already over the side yard setback; B) that the hardship is not the result of any prior action of the applicant and does not result primarily from the desire of the applicant to realize greater financial gain because the desire of the applicant is to better the living conditions of the house and not financial gain; C) that the granting of the requested variance will not alter the general character of the surrounding area or impair the intent or purpose of this chapter or the Comprehensive Plan because they are rebuilding on an area that already has construction on it and the change will still have the character of a residential structure; D) that the relief to be granted is the least relief necessary because they are proposing to rebuild on the same foundation. Additionally, the standards for a dimensional variance set forth in Section § 185-71 have been met because the applicant has proved that the hardship to be suffered by the owner, absent granting the relief, would amount to more than a mere inconvenience because they will not be able to get full use of their house absent converting the sunroom into office space, something often found in residential homes today.

Application #3827, Jeffrey & Dianne Silva, 108 Massasoit Ave., Barrington, RI, applicants and owners, for permission to enlarge existing kitchen and add a ½ bathroom. Assessor's Plat 33, Lot 10, R-10 District, 108 Massasoit Ave., Barrington, RI, requiring dimensional relief for front yard setback.

Present: Dianne and Jeffrey Silva, applicants and owners

Ms. Silva explained that they wish to increase the size of their kitchen and add a half bath - they have only one full bathroom in the house. They would add 65 square feet to an existing sunroom and incorporate it into the existing kitchen and create the half bath. Due to the layout of the existing house and its proximity to the street, there is no other place to locate this addition.

At 8:17 p.m., the public participation portion of the hearing was closed.

MOTION: Mr. Rizzolo made a motion to approve this application. Mr. Dennehy seconded the motion and it carried unanimously (5-0).

REASON FOR DECISION:

It was the judgment of the Board that the standards in § 185-69 have been met: A) that the hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not to the general characteristics of the surrounding area, and is not due to an economic disability of the applicant because the house is on a uniquely shaped lot where one side fronts Massasoit and the other side faces Woodward, and the house is not centered in the lot; B) that the hardship is not the

result of any prior action of the applicant and does not result primarily from the desire of the applicant to realize greater financial gain because the applicant has done nothing to create this situation and is not seeking greater financial gain; C) that the granting of the requested variance will not alter the general character of the surrounding area or impair the intent or purpose of this chapter or the Comprehensive Plan because this is a fairly small addition to the house and stays within the character of the neighborhood; D) that the relief to be granted is the least relief necessary because they are asking for just enough space to make the kitchen more useable and add a half bathroom where they only have a single bathroom in the house. Additionally, the standards for a dimensional variance set forth in Section § 185-71 have been met because the applicant has proved that the hardship to be suffered by the owner, absent granting the relief, would amount to more than a mere inconvenience because it is a reasonable request to have a house with two bathrooms and a workable kitchen.

Application #3828, Karen Antons, 10 Walnut Rd., Barrington, RI, applicant and owner, for permission to add an 8' addition with a covered front door. Assessor's Plat 17, Lot 224, R-10 District, 10 Walnut Rd., Barrington, RI, requiring dimensional relief for front and side yard setbacks.

Present: Karen Antons, applicant and owner

In the audience: Russell & Roseanne Wallace, 9 Walnut Road, Barrington, RI

Ms. Antons distributed larger versions of the plans that had previously been submitted to the Board and said that there were no changes.

Ms. Antons explained that this was originally a single level home to which a second story had been added but without a properly configured stairway. This addition / alteration is intended to address that issue, open up some first floor walls, and provide a covered area by the entry. The house currently encroaches on the side yard setback by almost 5 feet on the north side and this addition would continue the line of that wall eight feet but get no closer to the line than the existing home is. This would permit the creation of a covered area for the front door. In addition, there would be architectural features by the door that would encroach on the front yard setback by almost two feet.

Mr. Wallace, a neighbor across the street, spoke in favor of this application.

At 8:37 p.m., the public participation portion of the hearing was closed.

MOTION: Mr. Freel made a motion to approve this application. Mr. Rizzolo seconded the motion and it carried unanimously (5-0).

REASON FOR DECISION:

It was the judgment of the Board that the standards in § 185-69 have been met: A) that the hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not to the general characteristics of the surrounding area, and is not due to an economic disability of the applicant because the existing house is set in a corner of the property; B) that the hardship is not the result of any prior action of the applicant and does not result primarily from the desire of the applicant to realize greater financial gain because there is no evidence of prior action by the applicant

and the applicant's motivation is not greater financial gain; C) that the granting of the requested variance will not alter the general character of the surrounding area or impair the intent or purpose of this chapter or the Comprehensive Plan because there is evidence that many of the neighboring houses are closer to the property lines than this one and the general character of the surrounding area will not be affected; D) that the relief to be granted is the least relief necessary because the relief sought is minimal and the least needed to meet the applicant's needs to correct elements of the house and make a small addition to provide protection from the elements. Additionally, the standards for a dimensional variance set forth in Section § 185-71 have been met because the applicant has proved that the hardship to be suffered by the owner, absent granting the relief, would amount to more than a mere inconvenience since the existing house has some design deficiencies and a covered entrance is appropriate.

Application #3829, Erin Oden, 96 Lawndale Dr., East Greenwich, RI, applicant, and Phillip & Elizabeth Formica, 10 Glenfield Rd., Barrington, RI, owners, for permission to add a portico at the front door. Assessor's Plat 24, Lot 159, R-25 District, 10 Glenfield Rd., Barrington, RI, requiring dimensional relief for front yard setback.

Present: Erin Oden, applicant and contractor for the owners

Ms. Oden said they wished to add a portico on the front of the home for relief from the elements since this is the only entrance on the front of the house. It will also add an aesthetic appeal to the home. The portico is sized to accommodate the existing 6' double doors at the front entrance. Ms. Oden said that she has constructed other porticos not as deep and found them to be less functional.

Mr. Speaker said that the 1' 10" curved overhang, beyond the 6' 3" relief requested for the proposed portico, does not require dimensional relief. The total encroachment into the setback is 8' 1" with the portico measuring 9' 5" x 5' 2".

Ms. Oden said that the curve of the portico was strongly requested by the owner for aesthetics and in order to get that curve, they had to come out that distance in order to achieve the appropriate radius. This design helps the home to fit within the character of the neighborhood.

The Chairman noted that the Board had received two letters from the following neighbors who are in favor of this application.

- Carlos and Nicole Dominguez, 8 Glenfield Road, Barrington, RI
- Andra and Barry Shea, 4 Broadview Drive, Barrington, RI

At 8:55 p.m., the public participation portion of the hearing was closed.

MOTION: Mr. Freel made a motion to approve this application as represented on the plans. Mr. Dennehy seconded the motion and it carried unanimously (5-0).

REASON FOR DECISION:

It was the judgment of the Board that the standards in § 185-69 have been met: A) that the hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure

and not to the general characteristics of the surrounding area, and is not due to an economic disability of the applicant because the structure is already minimally inside the front yard setback so that any addition of a covered entry is going to intrude further into the setback; B) that the hardship is not the result of any prior action of the applicant and does not result primarily from the desire of the applicant to realize greater financial gain because there is no evidence that either of these applies; C) that the granting of the requested variance will not alter the general character of the surrounding area or impair the intent or purpose of this chapter or the Comprehensive Plan because there is strong support from two neighbors indicating that this portico addition would be an attractive addition to the residence and the neighborhood ; D) that the relief to be granted is the least relief necessary because a covered entry is appropriate and the size and additional curve are reasonable. Additionally, the standards for a dimensional variance set forth in Section § 185-71 have been met because the applicant has proved that the hardship to be suffered by the owner, absent granting the relief, would amount to more than a mere inconvenience since there is no other way to provide a covered entryway.

ADJOURN:

There being no other business, Mr. Freel moved to adjourn at 9:03 p.m. and the meeting was adjourned.

Respectfully submitted,

Mary Ann Rosenlof, secretary
Thomas Kraig, Chairman

cc: Andrew Teitz, Solicitor, Amy Goins, Assistant Solicitor